

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MORGAN FLETCHER BENFIELD,

CASE NO. C22-5681 BHS

Plaintiff,

ORDER

V.

NEXT LEVEL MARKETING,

Defendant.

THIS MATTER is before the Court on pro se plaintiff Morgan Benfield's request for Entry of Default, Dkt. 7. Benfield argues that Defendant next Level Marketing has failed to plead or otherwise defend under Rule 55(a).

Benfield filed a Proof of Service demonstrating that he served the Summons and Complaint on Next Level's registered agent on October 6, 2022. Dkt. 6. Necessarily implicit in Benfield's Request for Default is the allegation that Next Level failed to timely plead or otherwise defend under Rule 55.

But Next Level appeared in the case two days before it was served, and a month before Benfield moved for default. Dkt. 3. Eighteen days after service, Next Level moved to dismiss on three substantive bases, including lack of standing, improper venue, and

1 failure to state a plausible claim. Dkt. 5. A Rule 12 motion is “otherwise defending”
2 under Rule 55.

3 Next Level is not in default, and Benfield’s Request for Default, Dkt. 7, is

4 **DENIED.**

5 **IT IS SO ORDERED.**

6 Dated this 8th day of November, 2022.

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BENJAMIN H. SETTLE
United States District Judge